

Mail Stop Interference
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Paper 26
Filed: June 4, 2009

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Institut National de la Recherche Agronomique,
Junior Party
(Application 10/613,053
Inventors : Jun Imamura, Hideya Fujimoto, Ritsuko Yanagidate,
Nobuya Koizuka, Takako Sakai and Takahiko Hayakawa),

v.

BASF Plant Science GMBH , McGill University, and
DNA Landmarks, Inc.,
Senior Party
(Patent 7,314,971
Inventors: Fang-Ming Lai, Charles Dendy, Natasa Formanova,
Gregory G. Brown, Benoit S. Landry, Wing Cheung,
Hua Jin and Martin LaForest).

Patent Interference No. 105,682 (RES)
(Technology Center 1600)

Redeclaration

1 The parties by telephone and e-mail requested a telephone conference
2 to clarify the notice of Redclaration entered May 19, 2009 (Paper 24). The
3 parties raised a question relating to the designation of Agronomique's
4 Claims 101 and 104 as not corresponding to the count. The matter has been
5 reviewed and Agronomique's Claims 54 and 103 should have been so
6 designated rather than Claims 101 and 104. This interference is redeclared

1 with Agronomique's Claims 54 and 103 designated as not corresponding to
2 the Count. In view of this redeclaration, a telephone conference is
3 unnecessary.

4 **Identification and order of the parties**

5 **Junior Party**

6 Named inventors: Jun Imamura
7 Hideya Fujimoto
8 Ritsuko Yanagidate
9 Nobuya Koizuka
10 Takako Sakai
11 Takahiko Hayakawa
12 Involved Application: 10/613,053 filed July 7, 2003
13 Title: Protein Involved in Restoration of Cytoplasmic
14 Male Sterility to Fertility and
15 Gene Encoding the Protein and Gene
16 Assignee: Institut National de la Recherche Agronomique

17 **Senior Party**

18 Named Inventors: Gregory G. Brown
19 Charles Dendy
20 Benoit S. Landry
21 Wing Cheung
22 Hua Jin
23 Fang-Ming Lai
24 Natasa Formanova
25 Martin LaForest
26 Involved Patent: 7,314,971 issued from Application
27 10/345,072 filed January 15, 2003
28 Title: Nuclear Fertility Restorer Genes and
29 Methods of use in Plants
30 Assignees of Record: BASF Plant Science GMBH
31 McGill University
32 DNA Landmarks, Inc.

1 **Count, claims and benefit of the parties**

2 **Count 1**

3 An isolated nucleic acid which encodes a protein that restores fertility
4 to cytoplasmic male sterile plants, the nucleic acid comprising (1) Seq. ID
5 No: 2 of Application 10/613,053 or (2) nucleotides 164,311 to 174,022 of
6 Seq. ID No: 87 of Patent 7,314,971, the protein comprising (1) amino acids
7 1 to 687 of Seq. ID No: 3 of Application 10/613,053 or (2) the sequence of
8 amino acids 1 to 687 of Seq. ID No: 179 of Patent 7,314,971.

9 The claims of the parties:

10 Application 10/613,053: Claims: 24-26, 28, 29, 32, 34, 37-41,
11 43, 44, 47, 53, 54, 59, 63, 64,
12 73-106

13 Patent 7,314,971: Claims: 1-18

14 The claims of the parties which correspond to Count 1:

15 Application 10/613,053: Claims: 24-26, 28, 29, 32, 34, 37-41,
16 43, 44, 47, 53, 59, 63, 64,
17 73-100, 102, 105, 106

18 Patent 7,314,971: Claims: 1-18

19 The claims of the parties which do not correspond to Count 1, and, therefore,
20 are not involved in the interference:

21 Application 10/613,053: Claims: 54, 103

22 Patent 7,314,971: Claims: None

23 The parties are accorded the following benefit for Count 1:

24 Application 10/613,053: None

25 Patent 7,314,971: None

1. A telephone conference call to discuss this interference as set in Paper
- 2 24 remains scheduled for **4:00 p.m. on June 29, 2008** (the Board will
- 3 initiate the call).

/Richard E. Schafer/
Administrative Patent Judge

cc (e-mail):

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